

# Notice of Allowability

Application No.

09/853,916

Examiner

Matthew F DeSanto

Applicant(s)

QUINN, DAVID G.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/4/04.
2. ☒ The allowed claim(s) is/are 1-5,8,9 and 16-23.
3. ☒ The drawings filed on 04 June 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### **Reasons for Allowance**

1. The following is an examiner's statement of reasons for allowance:

Upon further consideration and review of the applicant's remarks on page 8, the examiner has found the claims to be in condition for allowance because the prior art does not meet the limitations that are in the claims as described by the applicant in the remarks section on page 8. The examiner has copied the paragraph that further explains the invention and shows the difference between the claims and the prior art. "However, the claims have now all been amended (or added) incorporating language, which spells out even more clearly that definition. The fact that applicant disclosed a catheter and bolus tip configuration is, in fact, radically different from that shown in any of the Cruz et al., Andersen, Rusch and Quinn '322 patents is inescapable. The bolus tip includes a nose, which is offset to one side of the catheter tube axis (at its distal end) on the same radial as the port behind it. To accomplish that, the nose section, on which the nose forms a tip, is inclined at an acute angle to the tube axis, as plainly seen in FIG. 4. In other words, the axis of the nose section (a straight line with respect to which a body is substantially symmetrical, sometimes called the axis of symmetry) is inclined to the tube axis. This brings a surface of the nose, adjacent its tip, into a position where it is substantially tangent to an imaginary cylinder extending forwardly from the external surface of the tube. It also requires that the cross-section of the nose section have a maximum thickness substantially smaller than that of the tube. Independent Claims 1, 16 and 20 each define at least two of the aforescribed distinguishing features. Each of the references shows a catheter tube in which the axis of the nose section is

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coincident with that of the tube. In none of the references is the nose adjacent its tip tangent to a cylinder extended forwardly from the tube surface. As such, no claim can be read literally on any cited reference and, thus no claim can be anticipated.”

Therefore, upon further consideration of the claims in view of the prior art the examiner has deemed the claims to be allowable because of the remarks by the applicant.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F DeSanto whose telephone number is 1-703-305-3292. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Nick LUCCHESI can be reached on (703) 308-2698. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Matthew DeSanto  
Art Unit 3763  
November 23, 2004



**NICHOLAS D. LUCCHESI**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3700**